MINUTES OF THE SIGNIFICANT ECOLOGICAL AREA TECHNICAL ADVISORY COMMITTEE (SEATAC) MEETING OF 7 December 2009

(Minutes approved on 24 February 2010. Dan Cooper moved for approval and Cheryl Swift seconded the motion.)

PERSONS IN ATTENDANCE:

SEATAC MEMBERS
Dr. Jonathan Baskin (absent)
Dan Cooper
Ty Garrison (absent)
Michael Long (absent)
Dr. Thomas Scott
Dr. Cheryl Swift

REGIONAL PLANNING STAFF
Dr. Shirley Imsand (SEATAC coordinator)
Steven Mar (SEATAC coordinator)
Anthony Curzi, Impact Analysis
Kim Szalay, Special Projects
Adrienne Ng, Ordinance Studies

NextLight, AV Solar Ranch One representatives and interested parties, R2009-02239, TR071035, RENVT 200900027, CUP 200900026

Jack Pigott, NextLight	(415) 935-2512
Roy Skinner, NextLight	(415) 935-2514
Christopher Julian, Biologist, URS	(805) 964-6010
Peter Gutierrez, Latham & Watkins	(213) 891-7309

General Public

Lynne Plambeck, SCOPE	(661) 255-6899
Scott Harris	(626) 797-3170

MINUTES pagination:

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NOTE: SEATAC MEETINGS ARE INFORMAL WORKING SESSIONS. MEMBERS ARE APPOINTED VOLUNTEERS IN AN ADVISORY CAPACITY. MINUTES ARE PREPARED BY PLANNING STAFF PRIMARILY FROM NOTES. SESSIONS ARE ALSO TAPE RECORDED BUT THE TAPES ARE PRIMARILY FOR BACK-UP USE BY STAFF. VISITORS ARE ADVISED TO TAKE PROPER NOTES AND/OR RECORD THE SESSION. ISSUES NOT DISCUSSED BY SEATAC DO NOT IMPLY TACIT APPROVAL. NEW OR CLARIFIED INFORMATION PRESENTED IN SUBSEQUENT SUBMITTALS MAY RAISE NEW ISSUES AND MAY REQUIRE FURTHER ANALYSIS. MINUTES ARE GENERALLY APPROVED AT THE NEXT SEATAC MEETING. DRAFT MINUTES MAY BE REQUESTED BUT ARE SUBJECT TO REVISION.

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MINUTES

AGENDA ITEMS

1. **Discussion of applications for Dr. Jeffrey Froke and Gary Santolo to be placed in the SEATAC Certified Biologists List.** SEATAC moved to approve Dr. Jeffrey Froke to be placed on the SEATAC Certified Biologists List. SEATAC was not satisfied with the materials submitted by Gary Santolo. The report did not demonstrate competence in listing of sensitive taxa, understanding of regional distributions, and genetic implications of possible threats. It did not really discuss possible impacts and mitigation possibilities for those impacts. An example of the lack of a correct list of sensitive taxa is the survey for Cactus Ferruginous Pygmy Owl, which does not occur in the area, and omission of the Elf Owl, which does occur in the area. SEATAC decided to grant a provisional one time approval for Gary Santolo to allow SEATAC to accept and review Santolo's BCA report for the Gray Butte Solar Array project. SEATAC recommended that in soliciting applications from biologists to be placed on the list, the qualifications and requirements for application submittals are made clear.

2. **Discussion and presentation of proposed amendment to the Oak Tree Permits ordinance(Title 22 Zoning Code),**
Presentation by Adrienne Ng, Ordinance Studies section

   The amendment to the Oak Tree Permits ordinance is to allow the Fire Department to put a process in their code that would allow them to regulate oak tree pruning for health and safety reasons. The current oak tree permitting process costs about $11,000 ($5,000 for environmental review, $5,000 for the actual permit, $1,000-$2,000 for site plan application). The 5th District wants to implement a process that would bypass the Department of Regional Planning and offer oak tree permitting for pruning for issues of safety and health free of charge to be overseen by the County Forester. It would be cheaper for the Forester to do oak tree inspections for free than it would be to spend administrative costs for charging for oak tree inspections. The intent of the ordinance is to make it easier and cheaper for homeowners to maintain their oak trees. This would exempt DRP from handling oak tree maintenance cases and hand that responsibility over to the Forester.

   SEATAC raised the concern that the Forester might have to respond to many oak tree inspections, since they would be offered free of charge, and Foresters would be overwhelmed with inspection requests. This might lead to hurried, incomplete inspections. It might compromise the basic intent, which is to preserve the trees of the urban forest. Infestations could increase demand for inspections. It will be useful to the County to have persons experienced in recognizing contagious tree disease inspecting the trees. (There is a possible bark beetle infestation approaching from San Diego [Gold-spotted Oak Borer] that may occur in the near

future, as it is spread in firewood. *Xylella fastidiosa* is an oak scorch pathogen that is currently attacking oaks in Texas and is spread by insect vectors. Additional concerns are fungi *Botryosphaeria* and *Phytophthora ramorum* (cause of Sudden Oak Death) which may spread via many kinds of vectors. Ambrosia beetles cultivate spores of certain fungi in their pores, so that they inoculate their brood tunnels with fungi that their larvae eat. Ash borer in the Midwestern United States is causing many difficulties and resulting in county quarantines.) SEATAC would rather have certified arborists go out to inspect oak trees in issues of health instead of the Forester. SEATAC is concerned with checks-and-balance issues for the Forester. The arborist's consultation fee would certainly be less than the current oak tree permit. A certified arborist report from a known, reliable arborist could even make a Forester's inspection unnecessary. Bad outcomes of the pruning would be the arborist's responsibility and not the County's. Spot checks by the Forester would enable arborist evaluation for reliability. There would be a paper trail to support decisions and a system of checks and balances among the tree owner, the arborist, and the Forester. The option for the Forester to ask for an arborist's report should be available.

The basic problem SEATAC has is whether the homeowner will know that the Forester needs to inspect their tree because it is sick, if there is no certified arborist inspecting the tree first.

A member of the public commented that there have been many heritage oaks that have been lost due to emergency permits that have been approved by the Forester with little oversight. There is pressure on the Forester to allow pruning that essentially removes oak trees under emergency permits. The process needs oversight.

SEATAC recommends that there needs to be language in the ordinance that clearly defines "pruning," limiting the maximum pruning allowed, so that it does not result in removal. SEATAC reiterated their preference to have a certified arborist involved in the process of inspecting the trees.

ACTION TAKEN: SEATAC decided to make no specific recommendation on the ordinance at this time.

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3. Project Description: **NextLight, AV Solar Ranch One**

Project No., R2009-02239, TR071035, RENV 200900027, CUP 200900026

Applicant: Roy Skinner of NextLight

Biologist: John Davis IV of URS Corporation, Santa Barbara

A project for a new solar photovoltaic facility in the vicinity of Fairmont Butte is proposed for approximately 2100 acres. The project site is located approximately 20 miles northwest of the City of Lancaster in Los Angeles County, California. The site is roughly between 155th Street West and 180th Street West and between Avenue B-5 West and Avenue E West. The project includes a 20,000 sq.ft. facility building, an 8 ft.-high perimeter fence to prevent vandalism, and transmission line to deliver power produced. The transmission line for the project will run north along 170th St. West for 3.5 mi. to the SCE Whirlwind substation on Astoria Avenue in Kern County or, alternatively, 1.5 miles along Avenue C to connect into the Antelope-Magunden transmission line.

The current use of some of the land is agricultural and fallow agricultural, but most is land that has had previous agricultural use and is now covered by rabbitbrush scrub or non-native grasses. There is a 27-acre ranch with domicile and outbuildings that will be leveled. The ranch has Junipers, exotic trees, and a defunct pistachio orchard that support a number of native birds. The southeast corner of the project has a wildflower field of California Poppies, Goldfields, Lupine, and other wildflowers. The site includes part of a Significant Ecological Area, **SEA #60, Joshua Tree Woodland Habitat SEA**. There has been some recruitment of Joshua Trees onto the subject property that is not included in the SEA, and about 30 of 50 recruits would be removed. The part of the property in the SEA has no Joshua Trees at the present time.

The project includes the 20,000 sq.ft. facility building, 75,000 tilted tracker units, 1,300 drive motors, 400 pads for electrical equipment. There are two types of ballast bases proposed for the panels: the current design is of heavy concrete blocks, approximately 10'x2'x1.5'. Tracker units will have connected foundations for stability in severe wind conditions. A less expensive and preferred base is currently in design, a screw-type base that would cover less area than the blocks, but need drilling into the ground for about 15' depth. Drive motors will be on concrete pads 8' X 12' spaced 1200' apart. High points of the tilted tracker units will be about 15 ft. above ground surface and electrical equipment enclosures reach to about 12 ft. height.

Grading proposed is 700,000 cu.yd of cut and 700,000 cu.yd. of fill to be balanced on site. Most of the grading is for channelizing the main drainage course, which will be about 10' deep at the SW end and even with the surrounding terrain at the NW end. The walls of the main course are to be earthen, and "V"-shaped groins in the sandy stream course will direct water flow away from the walls. Other drainages on site will be left as is. There are several drainages on-site that start abruptly with a depth of about 3-5 ft. and terminate by flowing out onto the surrounding desert plain. The origin and nature of these

ancillary, apparently unconnected drainages is unknown. It is anticipated that very minimal grading will be needed for the remainder of the site, as the applicants hope to keep the present ground covers to minimize dust production, which would be detrimental to optimal radiation reception. The project installation may require some grading for flat alignment of the solar panels. Production of electricity would occur about three years after construction begins. The site is evaluated as averaging +7.5 KWh/m^2/day.

SEA RESOURCE DESCRIPTION: The **Joshua Tree Woodland Habitat** is diminishing at an accelerating rate in Los Angeles County due to agricultural, solar, and urban expansion in the County's desert regions. This vegetation has a fairly strict elevation criterion and occurs between 2500-4000 feet. The dominant species is the Joshua Tree (*Yucca brevifolia*) which may reach heights of 5 to 12 m. Other common species of the woodlands include Mojave Yucca, sage, box-thorn, and buckwheat.

Action Requested: **Continued review of Biological Constraints Analysis and follow-up to SEATAC meeting on September 14, 2009, to advise on preparation of the Biota Report. The Biota Report will be used to prepare the Environmental Impact Report (EIR) for California Environmental Quality Act (CEQA) compliance under Article 7, Section 15080. Mitigation measures may be proposed by SEATAC for incorporation into the EIR.**

Notes from the applicant's presentation:

Joshua tree recruitment area along the northern portion of the site that abuts SEA #60 is now avoided. Additional buffer provided of 50 ft. from any Joshua tree seedlings within the recruitment area, providing a total of 8.3 acres preserved along SEA #60. Impacts to drainages A and B will now be avoided (no filling, grading, or draining). Setback of at least 100 ft. from each bank of Drainage A in the CDFG jurisdictional portion and 100 ft. total length on both banks outside of the CDFG jurisdictional portion, reducing overall project grading cut & fill by 80%. Drainage on NE corner of the property will be more diagonal than depicted in the biota report in conformance to DPW's requests. Drainages are used as a wildlife corridor and will be left free of panels. Spaces will be left between solar panels for wildlife corridors. Fencing originally proposed around Drainage A is no longer being proposed. Drainage C will not be impacted. Drainage B is not considered a mitigation area because of its small, linear, and isolated nature. Drainages will not be fenced. No fencing is proposed for Drainage B nor along the interior portion of Drainage C. Wildlife permeable fencing is now incorporated in the project in areas appropriate for wildlife movement with top slack wire to inhibit perching by ravens and lower space for wildlife passage. Vegetation management on site will now consist of annual mowing of vegetation to about 3-6 inches in height prior to the fire season, estimated to be May 31. Applicant changed language in the Biota report and now uses the term "habitat modified" in place of "temporary impact."

Applicant has discussed context of the project in terms of cumulative impacts on the Western Mojave biome. The applicant looked at the UCSB Bren School of Environmental Science and Management report, the BLM Solar Energy Development Programmatic EIS, and the BLM West Mojave Plan. These reports dealt with desert tortoises and bighorn sheep, which are not issues

with this site. This site concerns foraging habitat for grassland birds. Therefore, this Project does not cumulate with impacts discussed in other examined plans. Applicant states that it is difficult to integrate the West Mojave Plan into the biota report since the West Mojave Plan is really uncertain in that it deals with potential projects, many of which will not be realized. Further, very few of the proposed projects even have vegetative maps, so information on vegetative impact is impossible to summarize in a meaningful way. Therefore, the biota report looked at current and approved land uses in and around the site to analyze cumulative impacts. Size of a solar project does determine the ultimate price at which the energy is delivered (bigger projects deliver for less), and utility companies will probably be able to choose projects for contracts since there are many from which to select.

SEATAC Discussion and Comments:

1) **Mr. Szalay (DRP) asked about proposed screening for fencing with a concern for visual shielding.**
SEATAC expressed concerns that any vegetation used as fence screening should not create artificial habitat for unnatural predation advantage by ravens, crows, shrikes, kestrels. This could be a significant hazard for the Coast Horned Lizards of the property. SEATAC and the applicant discussed planting various native species, such as a mix of juniper, Joshua trees, quailbush, and rabbitbrush, to be used as fence screening. SEATAC suggests aiming for the natural ecological components in a mix, and avoiding exotics considered invasive, such as oleander.

Mr. Harris (of CA Dept. of Fish and Game) suggested that to discourage predatory bird perching, fabric screening be used to screen the fence instead of vegetation.

2) **SEATAC would like more specificity in the cumulative impact analysis stating how the Project fits into the Western Mojave Plan (WMP) in the regional context of land use. Is it in a proposed area for preservation or an area proposed for development? What are the Project's concessions? What are the trade-offs? The Project site is in the center of the area considered as "Western Mojave Desert." Regardless of the tentative nature of the WMP, it is important to state how this project aligns with or is not following the WMP. These plans are majorly influenced by developers, so there is a good chance that the project integrates with it.**

Mr. Harris commented that the West Mojave plan has been adopted by the BLM for federal projects in the BLM; however, BLM's multi-use policies often are contradictory to preservation of resources. The Plan has not been adopted in unincorporated areas. The Cities of Lancaster and Palmdale cite the Plan.

3) **SEATAC would like more specificity on the impact on wildflower fields and the impact on rabbitbrush scrub. SEATAC believes that these resources are vanishing, and that it is important to try to consider impacts for these**

vegetation types with appropriate mitigation of preservation, offsite if necessary.

4) SEATAC acknowledges that wildflower fields are ephemeral, show only in the months of March and April, and that the show varies dramatically from year to year with rainfall variations. Further, due to site variations in both substrate and rainfall (from coastal, montane, and desert weather interactions), the field show can vary from place to place. For example, 2009 was a poor year for wildflowers at the Poppy Preserve, but very good at the Project site. For these reasons wildflower fields are usually overlooked. Due to the great variety of sites that are wildflower fields, removal of any one could be removal of a unique composition. Unfortunately, wildflower fields do not have a closely associated endangered species such as the California Gnatcatcher's affiliation with Coastal Sage Scrub. But wildflower fields are an important, rare, sensitive habitat, and removal must be mitigated appropriately. Although wildflower fields are grassland, they are of higher value than non-native grassland. Most of the wildflower field connective area will be eliminated by the Project.

5) Previously SEATAC had asked applicant to propose amount of offsite mitigation thought appropriate, and applicant has responded with [377 acres of mitigation : 1806 acres of impact (modified or impacted)] which is 0.2:1. SEATAC states that outcome of onsite plantings will be experimental, and cannot be considered as mitigation. (Features such as water runoff from panel wash might even promote non-native weeds.)

Applicant states that this mitigation proposed takes into account the sensitivity of the impacted resources, the previously disturbed nature of most of the site, and that there is no existing rule determining mitigation ratios.

6) SEATAC suggests that mitigation sites be prioritized specifically to be within the near vicinity of the neighboring SEAs and/or provide connectivity between the patchwork of the Joshua Tree SEA or add to the connectivity between the State Poppy Preserve and the SEAs.

Applicant responded that it is intended that mitigation would be located as close as possible to the site, but that specificity on mitigation location would influence availability and economics of purchase in a disadvantageous manner.

7) SEATAC states that a reasonable mitigation might be a contribution to the BLM for their proposed preserve areas.

Applicant reminded SEATAC that although large portions of the project site will not count towards any mitigation credit, there is still biological value to the project over a housing development or a parking lot.

8) SEATAC states that relocation should not be classified as a mitigation measure because of the unknown variables such as survival of transplants, disease transport and spread, and high probability that suitable habitat is already occupied. Relocation may not be beneficial. SEATAC had a question about the Blainsville horned lizard capture and relocation success rate.

Applicant explained that the occurrence is at the edge of the lizard's range and was unexpected from any previous reports. Thus, it was considered an impact under CEQA that should have some mitigation.

Scott Harris (of CA Dept. of Fish and Game) advised that relocation of a species on an adjacent suitable property while still losing habitat is not appropriate mitigation unless there is a component of habitat protection or new habitat creation. Restoration of habitat that will be preserved, and relocation to that kind of place would be considered as beneficial to the species and appropriate as mitigation. Precedents of CEQA-acceptable mitigation are not necessarily effective mitigation. Monitoring is necessary to find out what works and what does not work, and needed monitoring data are not readily available.

SEATAC suggested that probably a best experiment would be to capture a proportion of population, hold them for a time until site is restored, and then release the captives. This might be very costly and might not be necessary, as site may naturally repopulate.

9) SEATAC recommends that monitoring include all sensitive species, not just plants. Add monitoring of lizard populations (and other wildlife such as burrowing owls), even if no relocation or return of captive individuals is done. This might be of value to future projects (beyond compliance) demonstrating that the NextLight sites eventually have a return of natural lizard and other wildlife populations.

Applicant states that the first mitigation measure requires the preparation of a vegetation management plan that prescribes performance standards for native and non-native species in mitigation areas (thresholds for percentage cover of native and non-native species; thresholds for invasive species; seeding of dump sites and unused roads; remediation in case performance is not met). Enhancement would pertain to improvement of site conditions; relocation was not considered as enhancement.

Applicant states that mitigation for burrowing owls includes making sure there are suitable burrows in the off-site mitigation land and if there are none, there would be construction of artificial burrows. Applicant commented that it was difficult to observe where the burrowing owls were

foraging because of their elusiveness, so although the foraging area was studied, the results were not conclusive.

Mr. Harris suggested that for burrowing owl foraging, 6.5 acres may not be sufficient.

10) Applicant asked how the comments and recommendations discussed in SEATAC should be carried over into the EIR.
Dr. Imsand said that it would be appropriate to incorporate SEATAC's comments and recommendations into the EIR. If possible, mitigation should be incorporated that would make the project compatible with the SEA. The Planners, Planning Commission, and Board of Supervisors will ultimately decide the compatibility issue.

11) Applicant stated that the SEA concerned was not designated for raptor habitat, but for Joshua Tree Woodland. The applicant asked why raptor foraging was a consideration in the SEATAC recommendations / compatibility decision. The applicant states that one of the alternatives for the site is 180 parcels with residences and county roads (the original plan), and that if the solar project is not approved, this alternative may occur.

SEATAC states that the size of the project (approximately 2100 acres or 3.3 sq.mi.) is the factor in this case that influences decisions about its compatibility, because any project of this size will be influential in the region. The objective of the SEATAC deliberations is to determine whether the Project will support the long time persistence of the SEA. SEATAC does not really consider alternatives, but makes a recommendation based on the biological and ecological effect of the current Project on the SEA. Using biological principles of population and community structure and ecological function, the SEATAC states that adjacent impacts of development projects do influence the SEAs, and these principles will influence their decisions with respect to compatibility of Projects with the SEAs.
In the case of the NextLight project's relation to the Joshua Tree Woodland SEA #60, the SEA will be negatively impacted by the Project, chiefly due to the Project's disruption of habitat and connectivity. The disruption of habitat and connection by the Project is greater than former agricultural use disruption. By removal of certain parts of the community and pathways and disruption of interchange (raptors, wintering birds, shrubs, wildlife freeform movement) the Project will disrupt flow of energy and trophic levels. In considering ecosystem effect of the Project, the SEATAC makes its recommendation to the County of "incompatibility." The mitigation proposed is insufficient to overcome the Project's negative impact on the Joshua Tree Woodland SEA. Sufficient mitigation is possible, but 0.2:1 is too little.

Mr. Harris commented on loss of foraging habitat for raptors as a probable cumulative impact of significance, and requested that the Project might monitor the issue.

12) **SEATAC expressed their praise to the applicant for the work and honesty of the biota report. The applicants have done an excellent report that incorporates SEATAC's recommendations so far. However, SEATAC states that there needs to be further refinement to the report, and that the Project is incompatible with the SEA.**

Applicant suggested that an errata to the biota report be submitted to SEATAC for their review. The errata would address SEATAC's concerns that were raised in this meeting.

SEATAC Recommendations:

1) **SEATAC recommends that further analysis of cumulative impacts of the project be further evaluated. Cumulative impacts analysis should include delineation of the project's fit into land use of the BLM West Mojave Plan. Further cumulative impacts analysis on wildflower fields and rabbitbrush scrub as well as Joshua Tree Woodland would be desirable.**
2) **SEATAC recommends that the mitigation and monitoring plan needs to be more specific in regards to how specific species will be monitored and handled (more than just counting and surveying) and needs to include all special interest vegetation and species.**
3) **SEATAC recommends that the applicant continue work on the biota section of the EIR even though SEATAC may deem the project to be incompatible with the SEA. SEATAC is an advisory committee to the Planning Commission and an "incompatible" recommendation by SEATAC would not necessarily lead to a decision of denial of a project by the Planning Commission.**
4) **SEATAC advises that a "compatible with the SEA" decision can be achieved if more land were preserved off-site and/or if the project was pulled back from the border of the SEA. SEATAC suggests a 1:1 ratio of similar type Mojave land as appropriate, and would like it to be focused in the Project region for the same type of habitat as the Project. The onsite mitigation area seems complete and appropriate, so what is left is the completion of offsite mitigation.**

ACTION TAKEN: SEATAC ruled the project as being incompatible to SEA #60 and gave the applicant the option to return for another meeting to further discuss the comments that were made in this meeting. Any further meetings with SEATAC are not required and are at the discretion of the applicant.
